

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOMBARDIER INC.,

Plaintiff,

v.

MITSUBISHI AIRCRAFT
CORPORATION, MITSUBISHI
AIRCRAFT CORPORATION AMERICA,
INC., et al.,

Defendants.

2:18-cv-1543 RAJ

DECLARATION OF MARY Z. GASTON
IN SUPPORT OF DEFENDANT
MITSUBISHI AIRCRAFT CORPORATION
AMERICA, INC.'S MOTION TO FILE
UNDER SEAL ITS OPPOSITION TO
BOMBARDIER'S MOTION FOR
PRELIMINARY INJUNCTION

Mary Z. Gaston declares:

1. I am a partner in the law firm of Perkins Coie LLP and counsel for Defendant Mitsubishi Aircraft Corporation America, Inc. ("MITAC America") in this action. I have personal knowledge of the matters herein. I make this declaration in support of MITAC America's Motion to File Under Seal its Opposition to Bombardier's Motion for Preliminary Injunction and Supporting Materials Thereto ("Opposition").

2. The parties have negotiated an Interim Confidentiality Agreement (*see* Dkt. 50-2) that governs the production and distribution of the eleven documents that Bombardier contends constitute or contain the purported trade secrets at issue in this case. The eleven documents are identified by Bombardier as Exhibits A-J to the Burns declaration (Dkt. 5) and Exhibit A to the

DECLARATION OF MARY Z. GASTON ISO
DEFENDANT MITSUBISHI AIRCRAFT CORPORATION
AMERICA, INC.'S MOTION TO FILE UNDER SEAL (NO.
18-CV-1543 RAJ) - 1

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1 Tidd Declaration (Dkt. 7). Bombardier moved to file those eleven exhibits under seal (Dkt. 6, 8),
2 and its motion to seal is currently pending (Dkt. 3).
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5 3. The parties have conferred several times via email, telephonically, and in person
6 over the course of December 17 to December 27, 2018, regarding the accompanying Motion to
7 Seal in order to identify and minimize any materials in MITAC America's Opposition needing to
8 be filed redacted or under seal. I first requested a meet and confer on December 17, 2018. On
9 December 18, 2018, Jerry Riedinger and myself (on behalf of MITAC America), Mark Bailey
10 (on behalf of the AeroTEC defendants), and Brian McMahon and Lindsey Calkins (on behalf of
11 Bombardier) met to discuss the Motion to Seal amongst other things in person at the Perkins
12 Coie offices. The parties discussed various options and procedures for identifying information in
13 the Opposition needing to be sealed, and Bombardier's counsel agreed to discuss such options
14 with their client and follow up. In particular, on behalf of MITAC America, we proposed
15 serving the Opposition materials by the December 26th deadline and providing Bombardier the
16 opportunity to confirm that nothing needed to be redacted prior to filing.
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19 4. Having not heard back from Bombardier by December 20, 2018 regarding our
20 proposed procedure for the Motion to Seal, we followed up with Bombardier's counsel by email
21 asking for their response to our proposal. We were advised that the proposal was not agreeable
22 and that the Opposition papers needed to be filed on December 26th.
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25 5. I again requested a meet and confer (as required under the Interim Confidentiality
26 Agreement) to reach an agreement regarding how portions of the Opposition materials that
27 discussed or referenced the materials designated by Bombardier as confidential were to be
28 handled.
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DECLARATION OF MARY Z. GASTON IN
SUPPORT OF DEFENDANT MITSUBISHI
AIRCRAFT CORPORATION AMERICA,
INC'S MOTION TO FILE UNDER SEAL (NO.
18-CV-1543 RAJ) - 2

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1 6. I was informed by Bombardier's counsel that they could not meaningful meet and
2 confer on the issue until after they were provided a copy of those portions of the Opposition
3 papers that referenced Bombardier's confidential information. After considerable discussion, the
4 parties agreed to the procedure set forth in the Joint Notice of Extension (Dkt. 57).
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7 7. Pursuant to that procedure, on December 26, 2018, counsel for MITAC America
8 served its Opposition and all supporting materials on counsel for Bombardier. Counsel for
9 Bombardier then had 24 hours in which to identify the portions of those documents that it
10 contended required redaction or filing under seal, after which time the parties were to hold a
11 meet and confer.
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14 8. Pursuant to the agreed-upon procedure, the Interim Confidentiality Agreement,
15 and Local Rules 5(g)(1)(A) and (3)(A), the parties, in fact, conducted a telephonic meet and
16 confer today, December 27, 2018, in an attempt to reach agreement regarding which portions (if
17 any) of the Opposition materials were to be filed under seal, to minimize the amount of material
18 being filed under seal, and to explore redaction and other alternatives to sealing. Six minutes
19 after the meet and confer was scheduled to begin, counsel for Bombardier provided its proposed
20 redactions to counsel for MITAC America, identifying significant portions of the Opposition
21 brief to be redacted, and further asserting that the Hansman, Boyd, Nguyen, and Riedinger
22 declarations in support thereof must be filed under seal in their entirety. Counsel for Bombardier
23 maintained this position following the meet and confer. Attorneys who participated in these
24 discussions were John Denkenberger (on behalf of Bombardier), Jerry Riedinger, Daniel Burley,
25 and me (on behalf of MITAC America), and Mark Bailey and Daniel Hagen (on behalf of
26 Defendants AeroTEC, Laurus Basson, and Cindy Dornéval).
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45 9. Attached hereto as Exhibit A is a true and correct copy of email correspondence
46 with John Denkenberger, counsel of record for Plaintiff Bombardier Inc. in this action, dated
47 December 27, 2018.
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50 DECLARATION OF MARY Z. GASTON IN
51 SUPPORT OF DEFENDANT MITSUBISHI
AIRCRAFT CORPORATION AMERICA,
INC'S MOTION TO FILE UNDER SEAL (NO.
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2 **I declare under penalty of perjury that the foregoing is true and correct.**
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4 Executed this 27th day of December 2018.
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6 /s/ Mary Z. Gaston
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8 Mary Z. Gaston
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DECLARATION OF MARY Z. GASTON IN
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CERTIFICATE OF SERVICE

I certify under penalty of perjury that on December 27, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses indicated on the Court's Electronic Mail Notice List.

DATED this 27th day of December 2018.

/s/ Jerry A. Riedinger

Jerry A. Riedinger, WSBA No. 25828

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